

AMENDED IN ASSEMBLY MAY 12, 2003

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 1065**

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**Introduced by Assembly Member Longville**

February 20, 2003

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An act to amend Sections 7202 and 7203 of the Revenue and Taxation Code, relating to taxation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1065, as amended, Longville. Local sales and use taxes: county rate.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes a county to impose a local sales and use tax at a rate of 1.25%, and similarly authorizes a city, located within a county imposing such a tax rate, to impose a local sales and use tax rate of 1% that is credited against the county rate.

This bill would authorize a county to impose a sales and use tax under that law at a rate of ~~at least 1.25%, but not to exceed either 1.25% or 1.5%~~. *This bill would also require county ordinances that impose taxes under that law to include a provision that requires a county to adhere to the voter-approval requirements of a specified provision of the California Constitution.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7202 of the Revenue and Taxation Code is amended to read:

7202. The sales tax portion of any sales and use tax ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(a) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the county at a rate of ~~at least 1.25 percent, but not to exceed either~~ *1.25 percent or* 1.5 percent, of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the county.

(b) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales taxes, except that the name of the county as the taxing agency shall be substituted for that of the state and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(c) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales tax and not inconsistent with this part, shall automatically become a part of the sales tax ordinance of the county.

(d) A provision that the county shall contract prior to the effective date of the county sales and use tax ordinances with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the county. This contract shall contain a provision that the county agrees to comply with the provisions of Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

(e) A provision that the ordinance may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code or following an increase by any city within the county of the rate of its sales or use tax above the rate in effect at the time the county ordinance was enacted.

1 (f) A provision that the amount subject to tax shall not include  
2 the amount of any sales tax or use tax imposed by the State of  
3 California upon a retailer or consumer.

4 (g) A provision that there is exempted from the sales tax 80  
5 percent of the gross receipts from the sale of tangible personal  
6 property, other than fuel or petroleum products, to operators of  
7 aircraft to be used or consumed principally outside the county in  
8 which the sale is made and directly and exclusively in the use of  
9 the aircraft as common carriers of persons or property under the  
10 authority of the laws of this state, the United States, or any foreign  
11 government.

12 (h) *A provision that requires the county to comply with the*  
13 *voter-approval requirements of Section 2 of Article XIII C of the*  
14 *California Constitution when the county imposes, extends, or*  
15 *increases the tax authorized by this section.*

16 (i) A provision that any person subject to a sales and use tax  
17 under the county ordinance shall be entitled to credit against the  
18 payment of taxes due under that ordinance the amount of sales and  
19 use tax due to any city in the county; provided, that the city sales  
20 and use tax is levied under an ordinance including provisions in  
21 substance as follows:

22 (1) A provision imposing a tax for the privilege of selling  
23 tangible personal property at retail upon every retailer in the city  
24 at the rate of 1 percent or less of the gross receipts of the retailer  
25 from the sale of all tangible personal property sold by that person  
26 at retail in the city and a use tax of 1 percent or less of purchase  
27 price upon the storage, use or other consumption of tangible  
28 personal property purchased from a retailer for storage, use or  
29 consumption in the city.

30 (2) Provisions identical to those contained in Part 1  
31 (commencing with Section 6001), insofar as they relate to sales  
32 and use taxes, except that the name of the city as the taxing agency  
33 shall be substituted for that of the state (but the name of the city  
34 shall not be substituted for the word “state” in the phrase “retailer  
35 engaged in business in this state” in Section 6203 nor in the  
36 definition of that phrase in Section 6203) and that an additional  
37 seller’s permit shall not be required if one has been or is issued to  
38 the seller under Section 6067.

39 (3) A provision that all amendments subsequent to the effective  
40 date of the enactment of Part 1 (commencing with Section 6001)

1 relating to sales and use tax and not inconsistent with this part, shall  
2 automatically become a part of the sales and use tax ordinance of  
3 the city.

4 (4) A provision that the city shall contract prior to the effective  
5 date of the city sales and use tax ordinance with the State Board of  
6 Equalization to perform all functions incident to the  
7 administration or operation of the sales and use tax ordinance of  
8 the city which shall continue in effect so long as the county within  
9 which the city is located has an operative sales and use tax  
10 ordinance enacted pursuant to this part.

11 (5) A provision that the storage, use or other consumption of  
12 tangible personal property, the gross receipts from the sale of  
13 which has been subject to sales tax under a sales and use tax  
14 ordinance enacted in accordance with this part by any city and  
15 county, county, or city in this state, shall be exempt from the tax  
16 due under this ordinance.

17 (6) A provision that the amount subject to tax shall not include  
18 the amount of any sales tax or use tax imposed by the State of  
19 California upon a retailer or consumer.

20 (7) A provision that there are exempted from the computation  
21 of the amount of the sales tax the gross receipts from the sale of  
22 tangible personal property to operators of aircraft to be used or  
23 consumed principally outside the city in which the sale is made and  
24 directly and exclusively in the use of the aircraft as common  
25 carriers of persons or property under the authority of the laws of  
26 this state, the United States, or any foreign government.

27 (8) A provision that, in addition to the exemptions provided in  
28 Sections 6366 and 6366.1, the storage, use, or other consumption  
29 of tangible personal property purchased by operators of aircraft  
30 and used or consumed by the operators directly and exclusively in  
31 the use of the aircraft as common carriers of persons or property  
32 for hire or compensation under a certificate of public convenience  
33 and necessity issued pursuant to the laws of this state, the United  
34 States, or any foreign government is exempt from the use tax.

35 SEC. 2. Section 7203 of the Revenue and Taxation Code is  
36 amended to read:

37 7203. The use tax portion of any sales and use tax ordinance  
38 adopted under this part shall impose a complementary tax upon the  
39 storage, use or other consumption in the county of tangible  
40 personal property purchased from any retailer for storage, use or

1 other consumption in the county. That tax shall be at a rate of at  
2 ~~least 1.25 percent, but not to exceed~~ *either 1.25 percent or 1.5*  
3 percent, of the sales price of the property whose storage, use or  
4 other consumption is subject to the tax and shall include:

5 (a) Provisions identical to the provisions contained in Part 1  
6 (commencing with Section 6001), other than Section 6201 insofar  
7 as those provisions relate to the use tax, except that the name of the  
8 county as the taxing agency enacting the ordinance shall be  
9 substituted for that of the state (but the name of the county shall  
10 not be substituted for the word “state” in the phrase “retailer  
11 engaged in business in this state” in Section 6203 nor in the  
12 definition of that phrase in Section 6203).

13 (b) A provision that all amendments subsequent to the date of  
14 ~~such~~ *the* ordinance to the provisions of the Revenue and Taxation  
15 Code relating to the use tax and not inconsistent with this part shall  
16 automatically become a part of the ordinance.

17 (c) A provision that the storage, use or other consumption of  
18 tangible personal property, the gross receipts from the sale of  
19 which has been subject to sales tax under a sales and use tax  
20 ordinance enacted in accordance with this part by any city and  
21 county, county, or city in this state, shall be exempt from the tax  
22 due under this ordinance.

23 (d) A provision that the amount subject to tax shall not include  
24 the amount of any sales tax or use tax imposed by the State of  
25 California upon a retailer or consumer.

26 (e) A provision that, in addition to the exemptions provided in  
27 Sections 6366 and 6366.1, the storage, use, or other consumption  
28 of tangible personal property, other than fuel or petroleum  
29 products, purchased by operators of aircraft and used or consumed  
30 by the operators directly and exclusively in the use of the aircraft  
31 as common carriers of persons or property for hire or  
32 compensation under a certificate of public convenience and  
33 necessity issued pursuant to the laws of this state, the United States  
34 or any foreign government is exempt from 80 percent of the use  
35 tax.

36 (f) *A provision that requires the county to comply with the*  
37 *voter-approval requirements of Section 2 of Article XIII C of the*

- 1 *California Constitution when the county imposes, extends, or*
- 2 *increases the tax authorized by this section.*

